



# Florida Department of Environmental Protection

Marjory Stoneman Douglas Building  
3900 Commonwealth Boulevard  
Tallahassee, Florida 32399-3000

Charlie Crist  
Governor

Jeff Kottkamp  
Lt. Governor

Michael W. Sole  
Secretary

June 1, 2010

## **CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Gary Kowalczyk, FPL Martin Plant  
Plant General Manager  
Post Office Box 176  
Indiantown, FL 34956

RE: Florida Power & Light's Martin Power Plant  
DEP Case Number PA89-27  
(Postcertification Amendment dated May, 6, 2010)

Mr. Kowalczyk:

On May 7, 2010 the Florida Department of Environmental Protection's Siting Coordination Office (Department) received a request for a post certification amendment to the Site Certification Application for Florida Power & Light's (FPL) the Martin Energy Center for the portions of the Florida Gas Transmission (FGT) Phase VIII Project that fall within the certified area of FPL's Martin Plant in Martin County, Florida.

Pursuant to Section 62-17.205(c), F.A.C., the Department has determined that this request is an amendment to the application that will not require modification to the Conditions of Certification (COC) for the facility.

The Department's Order shall become final unless a timely petition for an administrative hearing is filed under sections 120.569 and 120.57, Florida Statutes ("F.S."), within 21 days of receipt of this Order. The procedures for petitioning for a hearing are set forth below.

Persons affected by this Order have the following options:

If you choose to accept the above decision by the Department concerning the postcertification amendment you do not have to do anything. This Order is final and effective as of the date on the top of the first page of this Order.

If you disagree with the decision, you may do one of the following:

1. File a petition for administrative hearing with the Department's Office of General Counsel within 21 days of receipt of this Order; or
2. File a request for an extension of time to file a petition for hearing with the Department's Office of General Counsel within **21** days of receipt of this Order. Such a request should be made if you wish to meet with the Department in an attempt to informally resolve any disputes without first filing a petition for hearing.

Please be advised that mediation of this decision pursuant to section 120.573, Florida Statutes ("F.S."), is not available.

How to Request an Extension of Time to File a Petition for Hearing

For good cause shown, pursuant to rule 62-110.106(4), Florida Administrative Code ("F.A.C."), the Department may grant a request for an extension of time to file a petition for hearing. Such a request must be filed (received) in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida, 32399-3000, within **21** days of receipt of this Order. Petitioner, if different from the addressee, shall mail a copy of the request to the addressee at the time of filing. Timely filing a request for an extension of time tolls the time period within which a petition for administrative hearing must be made.

How to File a Petition for Administrative Hearing

A person whose substantial interests are affected by this Order may petition for an administrative proceeding (hearing) under sections 120.569 and 120.57, F.S. The petition must contain the information set forth below and must be filed (received) in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, MS 35, Tallahassee, Florida, 32399-3000, within **21** days of receipt of this Order. Petitioner, if different from the addressee, shall mail a copy of the petition to the addressee at the time of filing. Failure to file a petition within this time period shall waive the right of anyone who may request an administrative hearing under sections 120.569 and 120.57, F.S.

Pursuant to subsections 120.54(5)(b)4 and 120.569(2), F.S. and rule 28-106.201, F.A.C., a petition for administrative hearing shall contain the following information:

- a) The name, address, and telephone number of each petitioner, the name, address, and telephone number of the petitioner's representative, if any, the site owner's name and address, if different from the petitioner, the DEP facility number, and the name and address of the facility;
- b) A statement of how and when each petitioner received notice of the Department's action or proposed action;
- c) An explanation of how each petitioner's substantial interests are or will be affected by the Department's action or proposed action;
- d) A statement of the material facts disputed by the petitioner, or a statement that there are no disputed facts;
- e) A statement of the ultimate facts alleged, including a statement of the specific facts the petitioner contends warrant reversal or modification of the Department's action or proposed action;
- f) A statement of the specific rules or statutes the petitioner contends requires reversal or modification of the Department's action or proposed action; and
- g) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the Department to take with respect to the Department's action or proposed action.

This Order is final and effective as of the date on the top of the first page of this Order. Timely filing a petition for administrative hearing postpones the date this Order takes effect until the Department issues either a final order pursuant to an administrative hearing or an Order Responding to Supplemental Information provided to the Department pursuant to meetings with the Department.

Judicial Review

Any party to this Order has the right to seek judicial review of it under section 120.68, F.S., by filing a notice of appeal under rule 9.110 of the Florida Rules of Appellate Procedure with the clerk of the

Department in the Office of General Counsel, Mail Station 35, 3900 Commonwealth Boulevard, Tallahassee, Florida 32399-3000, and by filing a copy of the notice of appeal accompanied by the applicable filing fees with the appropriate district court of appeal. The notice of appeal must be filed within thirty days after this order is filed with the clerk of the Department (see below).

Questions

Any questions regarding the Department's review of your postcertification amendment should be directed to Michael P. Halpin, P.E. at (850) 245-2002. Questions regarding legal issues should be referred to the Department's Office of General Counsel at (850) 245-2242. Contact with any of the above does not constitute a petition for administrative hearing or request for an extension of time to file a petition for administrative hearing.

Sincerely,



Michael P. Halpin, P.E.  
Administrator,  
Siting Coordination Office

**FILING AND ACKNOWLEDGMENT**

FILED, on this date, pursuant to §120.52  
Florida Statutes, with the designated  
Department Clerk, receipt of which is  
hereby acknowledged.

---

Clerk

---

Date

Service List CC by email (return receipt requested):

Jennifer Brubaker, Esquire  
Florida Public Service Commission  
Gerald Gunter Building  
2450 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850  
[jbrubake@psc.state.fl.us](mailto:jbrubake@psc.state.fl.us)

Peter C. Cunningham, Esquire  
Douglas S. Roberts, Esquire  
Hopping Green & Sams, P.A.  
Post Office Box 6526  
Tallahassee, FL 32314  
[peterc@hgslaw.com](mailto:peterc@hgslaw.com)

Kelly Samek, Esquire  
Fish and Wildlife Conservation Commission  
6230 South Meridian Street  
Tallahassee, FL 32399-1600  
[kelly.samek@fwc.state.fl.us](mailto:kelly.samek@fwc.state.fl.us)

Kimberly Menchion, Esquire  
Department of Transportation  
Haydon Burns Building  
605 Mail Station 58 Suwannee Street  
Tallahassee, FL 32399-450  
[kimberly.menchion@dot.state.fl.us](mailto:kimberly.menchion@dot.state.fl.us)

Ruth Holmes, Esquire  
South Florida Water Management District  
3301 Gun Club Road  
West Palm Beach, Florida 33406  
[rholmes@sfwmd.gov](mailto:rholmes@sfwmd.gov)

Steve Fry, Esquire  
Martin County Attorney's Office  
2401 Southeast Monterey Road  
Stuart, FL 34996  
[sfry@martin.fl.us](mailto:sfry@martin.fl.us)

Toni Sturtevant, Esquire  
Department of Environmental Protection  
3900 Commonwealth Blvd.  
Mail Station 35  
Tallahassee, FL 32399-3000  
[toni.sturtevant@dep.state.fl.us](mailto:toni.sturtevant@dep.state.fl.us)

Matthew Davis, Esquire  
Department of Community Affairs  
2555 Shumard Oak Boulevard  
Tallahassee, FL 32399-2100  
[matt.davis@dca.state.fl.us](mailto:matt.davis@dca.state.fl.us)

Roger Saberson, Esquire  
Treasure Coast Regional Planning Council  
70 Southeast Fourth Avenue  
Delray Beach, FL 33483-4514  
[ssroger@bellsouth.net](mailto:ssroger@bellsouth.net)

Also CC by email:

Rachel Godino, FPL Environmental Services

[Rachel.Godino@fpl.com](mailto:Rachel.Godino@fpl.com)